

REMARKS

Claims 1-3, 5-7, 9-11 and 13, 15-19 are pending in the present application. With entry of this Amendment, Applicants amend claims 1, 6, 7, 10, 11, 17 and 18. Reexamination and reconsideration are respectfully requested.

Applicants note with appreciation the withdrawal of finality by the Examiner. Applicants have amended the claims 1, 6, 7, 10, 11, 17 and 18 to correct informalities (such as based on a lack of antecedent support) and to better claim the invention. No new matter has been added.

The Examiner rejected the pending claims under 35 U.S.C. § 102(b) as being anticipated by Kenner et al. (U.S. Patent No. 5,956,716).

Applicants respectfully submit that there at least three separate reasons why the present claims are patentable over Kenner. Applicants have set forth each of the three reasons in detail below with respect to claim 1. Applicants respectfully request that Examiner reconsider his rejection of the claims based on Kenner.

1. Kenner Does Not Disclose Song Data Composed of Performance Data and Order Information with the Performance Data Representing Contents of a Music Performance And Containing Reproduction Limiting Information.

Claim 1 of the present application is directed to a song data reproduction apparatus that receives song data from a server. The song data is composed of performance data and order information. The performance data represents the content of a music performance and contains reproduction limiting information for limiting a reproduction state of the content of the music performance. The order information indicates either of a purchase or a preview associated to a usage right of the content of the music performance. It is important to emphasize that the song data is stored in the apparatus and that the performance data of the song data is used for both previewing and purchasing. If the order information of the song data is for preview, the reproduction limiting

information is read to limit reproduction of the performance data to a portion. If the order information is for purchase, the performance data is read in full.

Claim 1 recites “a receiving section that receives song data from the server in response to the order, the song data being composed of performance data and order information, the performance data representing the content of the music performance and containing reproduction limiting information for limiting a reproduction state of the content of the music performance”

Kenner does not disclose the above recitation. Kenner discloses a “premium subscription service.” (Col. 21, lines 35-45.) In this service, the user requests a video clip, but the system only provides the video clip when a subscription condition is met. (*See, e.g.*, Col. 24, lines 47-67.) Kenner teaches a video may be broken into segments. (*See, e.g.*, Col. 31, line 65 – Col. 32, line 8.) However, there is no discussion in Kenner of the system providing a video for purchase, where reproduction limiting information is received as part of the information included in the video. That is, Kenner does not disclose song data being composed of performance data and order information where the performance data represents the content of the music performance and contains reproduction limiting information for limiting a reproduction state of the content of the music performance.

At item B of the Office Action, the Examiner states that Kenner discloses song data being composed of performance data and order information and cites Col. 22, lines 20-45 and Col. 23, lines 12-24 of Kenner. These citations, however, merely describe various data relating to a video and subscription-available content. The citations make clear that Kenner merely provides videos for purchase. It does not disclose a receiving section that receives song data from the server in response to the order, the song data being composed of performance data and order information where the performance data representing the content of the music performance and containing reproduction limiting information for limiting a reproduction state of the content of the music performance.

2. Kenner Does Not Disclose a Reproduction Apparatus Reproducing Only the Specified Portion of the Performance Data.

Claim 1 recites “a reproduction control section that specifies a portion of the performance according to the read reproduction limiting information when the identified usage right indicates the preview, then reproduces only the specified portion of the performance data.” This recitation is also not disclosed by Kenner. At item J of the Office Action, the Examiner states that col. 29, lines 43-47 of Kenner corresponds to reproducing only the specified portion of the performance data of claim 1. In the cited section, Kenner describes a video clip with portions or segments based on languages or regionally specific information. Based on an index manager of the clips, Kenner teaches that an internet service provider that does not have many Spanish speakers may not store Spanish language version clips. It does not disclose or suggest that the *client terminal* reproduces a portion of the video based on reproduction limiting information when the received order information indicates preview.

3. Kenner Does Not Disclose the Reproduction Apparatus Reproducing All of the Performance Data When the Order Information Is Rewritten from the Preview to the Purchase.

Claim 1 recites “the reproduction control section reproducing all of the performance data when the identified usage right indicates the purchase, wherein the reproduction control section reproduces all of the performance data without reading the reproduction limiting information when the writing section rewrites the order information indicating the preview to the order information indicating the purchase.” Once again, Kenner does not even disclose reproduction limiting information as part of the song data and, thus, does not disclose reproducing all the performance data without reading the reproduction limiting information when the order information is rewritten from preview to purchase. Nor does it appear that the Examiner has cited to any section of Kenner that discloses this recitation in the Office Action.

Applicants respectfully submit that each of the above four reasons are sufficient for rendering claim 1 patentable over Kenner. Accordingly, Applicants respectfully request that the Examiner reconsider his rejection of claim 1 based on Kenner.

Claims 5, 9 and 19 are not anticipated by Kenner for at least the reasons set forth above. Claims dependent on claims 1, 5 and 9 are likewise not anticipated by Kenner for at least the reasons set forth above for the independent claims.

Claim 13 is directed to a server apparatus connectable to a song data reproduction apparatus. Claim 13 recites that the server apparatus has a creating section that creates data for a preview or purchase request "wherein the same performance data is commonly used for both the data of the song containing the order information indicating the preview and the data of the song containing the order information indicating the purchase." Kenner does not disclose this recitation because, as discussed above, it discloses the use of two versions of the song.


Accordingly, Applicants respectfully submit that claim 13 is not anticipated by Kenner. Applicants also respectfully submit that claim 15, which depends from claim 13, is not anticipated by Kenner for at least these reasons.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. **393032053200**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: October 29, 2009

Respectfully submitted,

By 
Mehran Arjomand

Registration No.: 48,231
MORRISON & FOERSTER LLP
555 West Fifth Street
Los Angeles, California 90013-1024
(213) 892-5630